

BANKING DIVISION[187]

Adopted and Filed Emergency After Notice

Pursuant to the authority of 2016 Iowa Acts, House File 2436, section 20 [Iowa Code section 543E.20], the Iowa Division of Banking (IDOB) hereby adopts new Chapter 25, “Appraisal Management Companies,” Iowa Administrative Code.

The adoption of Chapter 25 is related to the Superintendent of Banking’s role as administrator of the Iowa Appraisal Management Company Registration and Supervision Act (“the Act”), which was enacted by 2016 Iowa Acts, House File 2436, division I [Iowa Code chapter 543E], and which passed unanimously in both chambers during the 2016 Legislative Session. The Act gives the superintendent the authority to promulgate rules to administer the Act. Appraisal management companies (AMCs) assist banks and other mortgage lenders with satisfying the independent appraisal requirements of the Dodd-Frank Act by contracting with independent appraisers, and many Iowa banks already use AMCs. Federal regulations state that an AMC will not be able to perform services for a federally related residential mortgage transaction in Iowa after August 10, 2018, unless the AMC is registered with the state. The Act is intended to ensure that Iowa mortgage lenders may continue to use AMCs and closely follow the federal minimum standards for AMC regulation.

Chapter 25 is intended to implement the Act and ensure that AMCs are able to register and operate in Iowa without interruption. Enabling registration and ensuring continuous operation are especially important because the Act requires AMCs to be registered with the state as of January 1, 2017. These rules define the procedures for an application for registration as an AMC in Iowa, enumerate the fees applicable to AMCs, and set out other elements of AMC regulation. In the interest of making state government more efficient and transparent, the structure of these rules is very similar to the structure of other rules applicable to nondepository financial institutions. These rules have been reviewed by interested parties, including AMCs, the AMC trade association, Iowa bankers, Iowa credit unions, and Iowa appraisers, and these stakeholders have been supportive of these rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2773C** on October 12, 2016. A public hearing was held on November 1, 2016. Public comments were received and considered and are described below.

The Real Estate Valuation Advocacy Association (REVAA) made seven comments related to the proposed Chapter 25. First, REVAA commented that background checks for all owners of a registered AMC would be burdensome and should be limited to those who surpass a minimum threshold of ownership such as 10 percent. The IDOB agrees and notes that 2016 Iowa Acts, House File 2436, section 6 [Iowa Code section 543E.6], specifies that background checks are required only for those who own more than 10 percent of an AMC, and that proposed rule 187—25.1(17A,543E) defines the terms “owner” and “ownership” as encompassing only persons who own or have the power to vote more than 10 percent of the shares of an AMC. The IDOB believes that the statute and rule adequately address REVAA’s comment.

Second, REVAA commented that the notification periods should be consistent for the requirements in proposed rule 187—25.6(17A,543E) that an AMC must notify the administrator of a change in name, principal location, ownership, or controlling person. The notification requirements in proposed rule 187—25.6(17A,543E) ranged from 10 days to 30 days. REVAA further commented that the period for all required notifications should be 30 days. The IDOB agrees that consistency in the rules is desirable and beneficial to registrants but notes a distinction between changes that require advance notification and approval by the administrator, such as changes in ownership or controlling person, and changes of which the administrator may be notified after the fact, such as changes in name or principal location. The IDOB agrees that the notification period for changes in name or principal location, for which notice may be given after the fact, should be consistent. The IDOB has therefore revised proposed subrule 25.6(1) to require a registrant to notify the administrator within 15 days of a change in principal location, making the notification period consistent with that for a change in name in proposed subrule 25.6(2). However,

the IDOB declines to extend the notification period for changes in name or principal location to 30 days. After careful consideration, the IDOB remains convinced that 15 days is a sufficient period of time for registrants to provide these notifications, particularly considering that registrants may make these changes without notifying the administrator in advance.

REVAA's third comment proposed that the notification period for the required notices in rule 187—25.7(17A,543E), relating to the filing of criminal charges or administrative action against, or the commencement of bankruptcy or reorganization proceedings by, a registrant or a registrant's officers, directors, owners, or affiliates, be extended from 15 days to 30 days. The IDOB agrees that clarity is important with regard to notices and for that reason proposed a notice period demarcated in calendar days rather than business days. REVAA also commented that other states impose notice requirements for these events with notification periods ranging from 5 or 10 business days up to 30 calendar days. The IDOB has selected a notice requirement that is neither the most nor the least restrictive, compared to the requirements in other states. The rule's requirements are also similar to the notice requirements that the IDOB imposes on other regulated mortgage industry participants. The IDOB therefore declines to extend the notice requirement beyond 15 days. In addition, REVAA commented that this requirement would be burdensome for registrants because it would be difficult for AMCs to be aware when one of these significant events affects an officer or director of an affiliate or parent organization of an AMC. The rule would not require an AMC to notify the administrator in this situation. The rule applies only to the registrant and the registrant's officers, directors, owners, and affiliates. If an owner or affiliate of a registered AMC is itself a corporation or other organization, with its own officers, directors, and owners, the rule would not require disclosure of significant events affecting the officers, directors, or owners of the parent or affiliate organization. The rule would require disclosure of the relevant filings by or against the parent or affiliate organization, nothing more. If a person is an officer, director, or owner of a registrant *and* is an officer, director, or owner of the registrant's parent or affiliate organization, however, the rule would require notice to the administrator because of the person's position as an officer, director, or owner of a registered AMC. The IDOB believes this addresses the concern raised in REVAA's comment.

REVAA's fourth comment suggested that the notice provision in subrule 25.7(3) be revised to apply only to *final* formal regulatory action instituted against a registrant or the registrant's officers, directors, owners, or affiliates. After careful consideration, the IDOB believes that making such a change would undermine the purpose of the proposed rule. REVAA's proposed revision would give the administrator notice of regulatory action taken against a registered AMC only after the action became final. But each of the notifications required by rule 187—25.7(17A,543E) is triggered by the *commencement* of bankruptcy or reorganization proceedings, the *filing* of criminal charges, or the *institution* of regulatory action. All of these notification requirements are intended to give the administrator notice as soon as one of these significant events involving a registrant begins, not merely to notify the administrator after the issue has been fully resolved. The IDOB therefore declines to adopt REVAA's suggestion. REVAA also inquired as to the meaning of the word "formal" within the phrase "or other formal regulatory action against the registrant." The IDOB recognizes that this term may be confusing. Rather than adopt a definition of the term "formal regulatory action" or add a term like "informal regulatory action," the IDOB has concluded that the simplest approach is to delete the word "formal." As such, a registered AMC will be required to notify the administrator of any "other regulatory action" instituted against it. REVAA also suggested that "other regulatory action" be restricted to actions "related to AMC regulations." The IDOB has considered this comment, and believes that it would be inappropriate to limit the notification requirement in this manner. Notice that another state or jurisdiction has instituted regulatory action against a registrant or its officers, directors, or affiliates does not give the administrator grounds for discipline. Instead, subrule 25.7(3) requires registrants to notify the administrator of these events so that the administrator is aware of potential problems from the outset. The IDOB's experience regulating other financial entities has demonstrated that it is beneficial for the regulator to obtain access to this information as soon as possible. That experience also indicates that sharing information in this manner at the earliest opportunity helps to build a more productive relationship between the IDOB and regulated entities. The IDOB therefore declines to adopt this suggestion.

REVAA commented that the fees for change of ownership or change of controlling person are too high relative to the registration fee for AMCs, that the late fee is excessive, and that there is no limit on investigation fees. After review, the IDOB notes that the proposed \$50 late fee compares favorably to the late fees assessed by the existing regulatory boards within the Professional Licensing Bureau and declines to change the late fee. The IDOB also concluded that the examination and investigation fees, which are fixed at a rate of \$100 per hour, are reasonable. However, the IDOB acknowledges, after review, that the language in the fee table in proposed subrule 25.8(5) was ambiguous regarding the investigation fee. The IDOB has therefore revised the description of this fee in the fee table in proposed subrule 25.8(5) to clarify that the \$100 hourly rate applies to both examinations and investigations. The IDOB also agrees that its fees should be compared to those charged in other states. In response to REVAA's comment, the IDOB reviewed the fees for application, initial registration, annual renewal, and changes in ownership or controlling person from proposed subrule 25.8(5) and compared them to the fees charged in other states. Based on this review, the IDOB concluded that the proposed \$750 combined fee for becoming registered (\$250 application fee + \$500 initial registration fee) is substantially lower than the 39-state average of \$1,464 and the \$1,755 average in states contiguous to Iowa. The IDOB has therefore decided to increase the initial registration and annual renewal fees to \$750 and to keep the application fee unchanged. The IDOB has also concluded that it is appropriate to reduce the fees for change of ownership or controlling person from \$250 to \$150. The fees for change of ownership or controlling person are thereby substantially lower in absolute terms and relative to the cost of registration. The revised total cost of becoming registered, \$1,000 (\$250 application fee + \$750 initial registration fee), also remains well below the 39-state average cost and the average cost in contiguous states.

REVAA next commented that proposed subrule 25.10(1), which provides that the administrator may investigate or examine a registered AMC "at any time and as often as the administrator deems necessary," is overly broad. REVAA suggested that the IDOB remove the phrase "at any time and as often as the administrator deems necessary." The IDOB's long experience regulating other financial entities, including those involved in the mortgage industry, indicates that regulation is more effective if examinations are conducted on a regular basis, not only when a triggering event has precipitated an examination. This approach fosters a better working relationship between regulated entities and the IDOB and promotes a combined effort towards compliance rather than instilling a mindset that the IDOB conducts examinations only because violations have been reported or detected. However, the IDOB agrees that its authority to conduct investigations pursuant to 2016 Iowa Acts, House File 2436, section 20 [Iowa Code section 543.20], is tied to assessing potential violations of appraisal-related laws, regulations, rules, and orders. The IDOB therefore declines to adopt REVAA's suggestion but has revised proposed subrule 25.10(1) to clearly ground the subrule in the statutory language that gives the administrator this authority.

Finally, REVAA commented that the grounds for discipline in proposed paragraph 25.11(2)"g" are unclear, allow the administrator to take disciplinary action against an AMC without adequately considering all the facts and circumstances surrounding action taken in another jurisdiction, and allow the administrator to discipline an AMC for conduct that did not occur in Iowa or affect Iowans. After careful review, the IDOB has concluded that 2016 Iowa Acts, House File 2436, section 17 [Iowa Code section 543E.17], specifically authorizes this paragraph. The statutory language provides that the administrator may, after notice and hearing, discipline a registrant, and the statutory language specifies that the permissible grounds for such discipline include the "[c]ancellation, revocation, suspension, or refusal to renew the authority to practice as an appraisal management company, or the acceptance of the voluntary surrender of a registration to practice as an appraisal management company to conclude a disciplinary investigation or action, by any other state, a federal agency, or foreign authority for any cause other than failure to pay appropriate fees in the other jurisdiction." The IDOB concludes that the statute does not preclude the administrator from taking disciplinary action against a registered AMC for conduct that occurs outside the state of Iowa. The IDOB also concludes that the paragraph is sufficiently clear and that the requirement for the administrator to give notice and hold a hearing before taking disciplinary action adequately addresses REVAA's concern that the IDOB will not take into

account the facts and circumstances surrounding events that occur in another jurisdiction. The IDOB therefore declines to adopt REVAA's suggestion.

The IDOB made several changes in addition to those made in response to public comments received. The IDOB made a conforming change to subrule 25.2(3) clarifying that, as with other aspects of the application process, the administrator may require fingerprint background checks through either the NMLS or other means the administrator deems appropriate. The IDOB revised subrule 25.8(3) by replacing the word "administrating" with the word "administering." The IDOB revised the fees in subrule 25.8(5) by deleting the prefatory language, raising the conversion fee for preregistered persons from \$125 to \$150 in order to make it consistent with other fees, and adding a \$25 fee to request a letter of good standing. The IDOB revised paragraph 25.9(2)"a" by creating one sentence to indicate that AMCs must keep a record of the appraiser assigned to each request for appraisal services and a separate sentence indicating the information AMCs must include in that record. The IDOB revised the final sentence of subrule 25.13(2) to emphasize that the administrator's approval of an application for preregistration will not cause a preregistered entity to be listed on the federal registry of appraisal management companies. The IDOB also revised subrule 25.13(3) to clarify that a preregistered person applying for conversion to registered status must submit the conversion fee, the initial registration fee, and the appropriate fee for listing on the federal registry. Finally, references to 2016 Iowa Acts, House File 2436, have been updated to reflect the codification of Iowa Code chapter 543E.

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the IDOB finds that the normal effective date of these rules, 35 days after publication, should be waived and the rules made effective January 1, 2017. These rules confer a benefit and remove a restriction on the regulated public in that the rules enable AMCs to register with the state as required by 2016 Iowa Acts, House File 2436, section 20 [Iowa Code section 543E.20], which requires all AMCs doing business in Iowa to be registered, effective January 1, 2017. If these rules are not effective by that date, the many AMCs already doing business in Iowa will be unable to register and therefore unable to do business until the rules take effect. Many Iowa banks and mortgage lenders already use the services of AMCs doing business in Iowa. Ensuring that these rules are effective as of January 1, 2017, will enable AMCs already doing business in Iowa to become registered as soon as required by law and to continue to operate without interruption.

The IDOB is mindful of the potential impact that these rules and the associated fees may have on the cost of state government and on Iowa jobs and has worked to keep these fees as low as possible. The fees are set below the national average and at a level designed only to cover the costs the IDOB incurs in administering the statute. The IDOB believes setting fees at this level will enable the industry to continue operating in Iowa and will ensure efficient regulation while minimizing the impact of fees and avoiding burdensome costs to regulated entities. The IDOB also acknowledges that the \$750 annual registration fee will likely have some effect on jobs, but anticipates that the effect will be minimal and notes that, without these rules, Iowa would likely suffer a greater adverse effect on jobs due to the inability of AMCs to operate in the state.

These rules are intended to implement Iowa Code chapter 17A and 2016 Iowa Acts, House File 2436, division I [Iowa Code chapter 543E].

This amendment will become effective January 1, 2017.

The following amendment is adopted.

Adopt the following **new** 187—Chapter 25:

CHAPTER 25
APPRAISAL MANAGEMENT COMPANIES

187—25.1(17A,543E) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 543E shall apply. In addition, unless the context otherwise requires, the following definitions shall apply:

"*Nationwide multistate licensing system*" or "*NMLS*" means a mortgage licensing system owned and operated by the State Regulatory Registry, LLC, a wholly owned subsidiary of the Conference of State Bank Supervisors.

“*Owner*” means a person who owns or has the power to vote more than 10 percent of the shares of an appraisal management company.

“*Ownership*” means being an owner or otherwise having the power to vote more than 10 percent of the shares of an appraisal management company.

“*Registrant*” means a person who is registered as an appraisal management company in this state.

187—25.2(17A,543E) Application for registration.

25.2(1) An application for registration to operate an appraisal management company in Iowa shall be submitted to the administrator through the NMLS or as otherwise prescribed by the administrator. All information requested in the application shall be provided on or with the application form, including but not limited to any and all information required by Iowa Code section 543E.8(2). The administrator may consider an application withdrawn if the application does not contain all of the information required and the missing information is not submitted to the administrator within 30 days after the administrator requests the missing information.

25.2(2) Appraiser panel. The application shall include a list of all certified and licensed appraisers who are independent contractors and are currently on the applicant’s appraiser panel and shall also include any additional certified and licensed appraisers who are independent contractors and who in the 12 months immediately preceding submission of the application have performed appraisals, for the applicant or for persons that have ordered appraisals through the applicant, for covered transactions or for secondary mortgage market participants in connection with covered transactions in which the dwelling is located in this state. The application shall include the name, the certification or license number, the date the appraiser joined the panel, and the date the appraiser left the panel, if applicable, for each appraiser included on the applicant’s appraiser panel. The applicant’s appraiser panel shall include all appraisers the applicant has engaged to perform one or more appraisals for or in connection with a covered transaction or for a secondary mortgage market participant in connection with a covered transaction in this state and all appraisers the applicant has accepted for future consideration for such appraisal assignments.

25.2(3) All owners and controlling persons of the applicant must authorize a fingerprint background check, through the NMLS or as otherwise prescribed by the administrator, for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. This requirement applies to all owners and controlling persons, regardless of whether the individual has previously applied as an owner or controlling person of an appraisal management company under Iowa Code chapter 543E.

25.2(4) The applicant shall submit an application fee, initial registration fee, and background investigation fee in the amounts provided in subrule 25.8(5), as well as the fee required for registration on the appraisal management company national registry maintained by the appraisal subcommittee as specified in subrule 25.8(5). The applicant shall also pay any additional fees required by the NMLS, including but not limited to, the following: system processing fees and background check fees. The applicant will be refunded the initial registration fee and the appraisal management company national registry fee if the application is denied.

25.2(5) If any information material to the application changes after the applicant files the initial application but before the administrator approves or denies the application, the applicant shall provide updated information to the administrator in writing within 10 calendar days of the change. The administrator may deny the application when such a material change in information has occurred and the applicant has failed to provide updated information within the prescribed time frame.

25.2(6) An applicant for registration to operate an appraisal management company in Iowa must file with the administrator a \$25,000 surety bond in compliance with the provisions of Iowa Code section 543E.19.

25.2(7) A registration shall lapse on the next succeeding December 31 after it is issued, but a registration granted on or after November 1 and before December 31 shall not lapse until December 31 of the following year. For example, a registration granted on November 17, 2017, would not expire until December 31, 2018. An applicant whose registration is granted on or after November 1 and

before December 31 may be required, as determined by the appraisal subcommittee, to pay the fee for registration on the appraisal management company national registry in full for both calendar years. For example, while a registration granted on November 17, 2017, would not lapse until December 31, 2018, the registrant may be required to pay the national registry fee in full for 2017 and 2018.

187—25.3(17A,543E) Grounds for denial of a registration. The administrator may deny an application for registration to operate an appraisal management company, or issue a registration subject to restriction, for any of the reasons that follow.

25.3(1) This state or another state or jurisdiction has canceled, revoked, denied, suspended, or refused to renew the applicant’s registration to operate an appraisal management company or has denied, suspended, or refused to renew a similar registration under this state’s or the other state’s or jurisdiction’s law. An agreement made between a person and this state or another state or jurisdiction not to operate as an appraisal management company may be considered a denial of that person’s registration to operate an appraisal management company in this state or the other state or jurisdiction.

25.3(2) An owner or controlling person of the applicant has been barred, removed, or prohibited from owning or serving as the controlling person of an appraisal management company, or from serving in any capacity in a financial institution by any state or federal regulatory agency, including but not limited to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System, or the U.S. Department of Housing and Urban Development.

25.3(3) An owner or controlling person of the applicant is or was the owner or controlling person of another appraisal management company in another state or jurisdiction, if such other state or jurisdiction has canceled, revoked, denied, suspended, or refused to renew the registration or application for registration of such other appraisal management company under this state’s or the other state’s or jurisdiction’s law. An agreement made between a person and this state or another state or jurisdiction not to operate as the owner or controlling person of an appraisal management company may be considered a denial of that person’s application to serve as the owner or controlling person of an appraisal management company in this state or the other state or jurisdiction.

25.3(4) An owner or controlling person of the applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, tax evasion, or another similar offense, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States or in any foreign jurisdiction. For the purposes of this subrule, “convicted of” includes a guilty plea, deferred judgment, deferred sentence, or other similar finding of guilt by a court of competent jurisdiction.

25.3(5) The applicant, or an owner or controlling person of the applicant, has made a false submission of material fact on an application for registration or has been otherwise implicated in the submission of a false application.

25.3(6) An owner or controlling person of the applicant has demonstrated a lack of moral character in a manner that the administrator reasonably believes will impair the ability of the owner or controlling person to operate an appraisal management company in full compliance with the public interest and state policies described in Iowa Code chapter 543E.

25.3(7) For any reason listed in Iowa Code section 543E.17(1).

25.3(8) The applicant has failed to include all of the information required in the application or has failed to pay any fee required under Iowa Code chapter 543E or this chapter.

187—25.4(17A,543E) Renewal of registration.

25.4(1) To remain registered to operate an appraisal management company in Iowa, a registrant must renew a registration before the date the registration lapses. A registrant who holds a lapsed registration shall not directly or indirectly engage in or attempt to engage in business as an appraisal management company or advertise or hold itself out as engaging in or conducting business as an appraisal management company in Iowa until the administrator has reinstated the lapsed registration or has approved a new registration.

25.4(2) An application to renew a registration shall be submitted to the administrator, through the NMLS or as otherwise prescribed by the administrator, no earlier than November 1 and no later than December 1 of the year for which the registration is valid. For example, for a registration that will lapse on December 31, 2017, an application for renewal shall be submitted by December 1, 2017. All requested information, including any material change to information contained in the original application, shall be provided to the administrator as directed by the NMLS or as otherwise prescribed by the administrator. Applications for renewal of a registration must be accompanied by a fee as specified in subrule 25.8(5). The administrator may also assess late fees as specified in subrule 25.8(5) for applications submitted after December 1.

25.4(3) The administrator shall grant an application to renew a registration if:

- a. The administrator receives the application and the appropriate renewal fee by December 1, or the administrator receives the application after December 1 but before January 1 and it is accompanied by the appropriate renewal fee and the appropriate late fee;
- b. The application is fully completed and includes all necessary information; and
- c. The application does not reveal grounds that would be sufficient to deny initial registration, or issue a registration subject to restriction, pursuant to rule 187—25.4(17A,543E).

187—25.5(17A,543E) Reinstatement of lapsed registration.

25.5(1) The registration of an appraisal management company that has lapsed for failure to satisfy the minimum standards for renewal may be reinstated if the registrant meets the following requirements:

- a. The application for reinstatement is submitted between January 1 and February 28 of the year immediately following the year the registration lapsed.
- b. All minimum requirements for renewal of registration for the year in which the registration lapsed are satisfied prior to submission of the application for reinstatement. The registrant seeking to reinstate a registration must submit all information required to renew a registration pursuant to rule 187—25.4(17A,543E).
- c. The registrant pays a reinstatement fee as specified in subrule 25.8(5), in addition to the renewal fee, and any late charges.

25.5(2) An appraisal management company whose registration has lapsed and who fails to meet the requirements for reinstatement specified in this rule must apply for a new registration and meet the requirements in effect at that time for a new registration.

187—25.6(17A,543E) Changes in the registrant's name, location, or ownership.

25.6(1) A registrant wishing to change the principal location of an appraisal management company shall notify the administrator through the NMLS, or as otherwise prescribed by the administrator, within 15 days of making the change. The notice shall include proof that the registrant has either obtained a new bond or amended the existing mandatory bond to reflect the new location. The registrant shall submit a fee as specified in subrule 25.8(5) in association with the change.

25.6(2) Registrants must notify the administrator no later than 15 days following a change in name and must submit to the administrator a fee as specified in subrule 25.8(5).

25.6(3) The prior written approval of the administrator is required whenever a change in ownership of a registrant is proposed. When a change in ownership of a registrant is proposed, the party that will assume ownership of the registrant shall give notice to the administrator through the NMLS, or as otherwise prescribed by the administrator, at least 30 days before the proposed change will take effect. The party that will assume ownership of the registrant shall furnish the administrator through the NMLS, or as otherwise prescribed by the administrator, with the same information required of initial applicants for registration, along with a fee as specified in subrule 25.8(5). The administrator shall approve or deny the request in accordance with the provisions of rule 187—25.3(17A,543E).

25.6(4) The prior written approval of the administrator is required whenever a change of the designated controlling person of a registrant is proposed. When change of the designated controlling person of a registrant is proposed, the party that will become the designated controlling person of the registrant shall give notice to the administrator through the NMLS, or as otherwise prescribed by the

administrator, at least 30 days before the proposed change will take effect. The party that will become the designated controlling person of the registrant shall furnish the administrator through the NMLS, or as otherwise prescribed by the administrator, with the same information required of initial applicants for designation as a controlling person, along with the appropriate fee. The administrator shall approve or deny the request in accordance with the provisions of rule 187—25.3(17A,543E).

25.6(5) Failure to notify the administrator within the prescribed time as required by this rule may subject the registrant to disciplinary action. However, in the event the death, incapacity, or unexpected resignation of a designated controlling person, or a similar circumstance, makes it impossible for a registrant to provide 30 days’ advance notice, no disciplinary action shall be taken if the party that will become the designated controlling person of the registrant provides the notice described in subrule 25.6(4) promptly and no later than 10 days after learning that a new controlling person must be designated.

187—25.7(17A,543E) Notice of significant events. A registrant shall notify the administrator immediately and in writing within 15 calendar days of the occurrence of any of the following events.

25.7(1) The registrant or any of the registrant’s officers, directors, owners, or affiliates file for bankruptcy protection or commence reorganization proceedings.

25.7(2) A prosecuting authority files criminal charges against the registrant or any of a registrant’s officers, directors, owners, or affiliates.

25.7(3) Another state or jurisdiction institutes registration denial, cease and desist, suspension or revocation procedures, or other regulatory action against the registrant or any of the registrant’s officers, directors, owners, or affiliates.

187—25.8(17A,543E) Fees.

25.8(1) *Examination or investigation fees.* A registrant shall pay an investigation or examination fee as determined by the administrator based on the actual cost of the operation of the finance bureau of the banking division, as described in Iowa Code section 543E.10(1).

25.8(2) *Examination or investigation late fees.* A registrant shall pay the administrator the total charge for an examination or investigation within 30 days after the administrator has requested payment. If a registrant fails to pay an examination or investigation fee by the due date, the administrator may assess an additional penalty as identified in subrule 25.8(5) for each day the fee is overdue.

25.8(3) *Late fees for failing to respond.* In the process of administering this chapter, the administrator may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the administrator may assess a fee as specified in subrule 25.8(5).

25.8(4) *NMLS system processing fees.* In addition to the fees set forth in this chapter, the applicant or registrant shall pay any fee assessed by the NMLS attributed to the registrant’s record in the NMLS system including but not limited to the initial set-up fee, an annual processing fee, and any fees associated with changing or updating the registrant’s record.

25.8(5) Fees.

Application for registration fee	\$250
Registration fee (initial) (not applicable to preregistration)	\$750
Registration fee (annual renewal)	\$750
Background investigation fee	\$51
Appraisal management company national registry fee (not applicable to preregistration)	As determined by the appraisal subcommittee
NMLS fees	As determined by the NMLS
Fee for late submission of application for renewal	\$50
Fee to reinstate a lapsed registration	\$250

Reissuance or replacement of a lost, destroyed, or stolen registration	\$25
Fee for change of principal location	\$25
Fee for change of name	\$25
Fee for change of ownership	\$150
Fee for change of controlling person	\$150
Fee for late payment of examination or investigation fees	5 percent of amount due per day beyond 30 days past due
Fee for late response to examination request	\$10 per day beyond 30 days past due
Conversion fee for preregistered persons (applicable only when converting a preregistration to a registration)	\$150
Dishonored check fee	\$30
Examination or investigation fee	\$100 per hour
Mailing list fee	\$30
Fee for letter of good standing	\$25

187—25.9(17A,543E) Registrant records.

25.9(1) General record requirements. The following requirements apply to all records a registrant is required to keep pursuant to Iowa Code section 543E.13 and this chapter:

- a. The registrant may keep records as a hard copy or in an electronic equivalent.
- b. The registrant shall maintain all books and records in good order and shall produce books and records for the administrator upon request. Failure to produce such books and records within 30 days of the administrator’s request may be grounds for disciplinary action against the registrant.
- c. The obligation to maintain required records continues even after the registrant ceases business operations in Iowa and turns in or surrenders its registration. The owners and directors of the registrant are responsible for ensuring that this requirement is met for the period required under Iowa Code section 543E.13 and this chapter.
- d. The registrant shall keep all required records for at least five years from the date the record was created, unless a longer retention period is required by statute.

25.9(2) Required records. A registrant operating an appraisal management company shall keep, and be able to retrieve or access from its principal place of business, an appraisal request and assignment log, a true and complete copy of each appraisal performed, a payment log, applications for registration, a dispute resolution policy, and certain corporate records.

a. *Appraisal request and assignment log.* A registrant shall maintain a log of all appraisal services requested, including those requests for service that the registrant does not fulfill. A record of the appraiser assigned to each request for appraisal services accepted by the registrant shall also be kept. The record shall include a description of the assignment, the certification or registration number of the assigned appraiser, the certification possessed by the assigned appraiser, and the expiration date of the appraiser’s certification.

b. *Appraisal files.* For each appraisal service assigned by a registrant to an appraiser, the registrant shall keep a record of the award or engagement letter giving the appraisal assignment to the appraiser; the assigned appraiser’s acceptance of the assignment; all material communications between the registrant, the assigned appraiser, and the service requestor regarding a consumer credit transaction secured by the principal dwelling of an Iowa consumer, or the securitization thereof; and the appraisal report created by the assigned appraiser.

c. *Payment log.* A record shall be kept of all payments made by a registrant in association with the provision of appraisal services and shall include the date the payment was made, the amount paid, the appraisal services for which payment was made, and the date on which the appraiser provided the results of the completed appraisal service to the registrant.

d. Dispute resolution policy. A registrant shall maintain a copy of a dispute resolution policy for appraisers who request a review of a decision made by the registrant. The dispute resolution policy shall provide for a written response to the appraiser's request for review, a written statement of the outcome of the dispute resolution process, and a copy of all relevant documents to the appraiser upon request. The dispute resolution policy shall provide for external review of the decision in question or internal review of the decision in question by an officer or employee of a registrant who holds a higher position than the individual who made the decision in question.

e. Corporate records. A registrant shall maintain lists of all owners, directors, officers, and employees, as well as the minutes from meetings of the registrant's board of directors if the registrant's corporate structure includes a board of directors.

25.9(3) General business records. In addition to the required records, a registrant must keep the following general business records for at least five years from the date the record was created:

a. All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks (or copies thereof) relating to the registrant's operation of an appraisal management company.

b. Complete records (including invoices and supporting documentation) for all expenses and fees paid in connection with each appraisal, including a record of the date and amount of all such payments actually made in connection with each appraisal.

c. Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors, and others compensated by a registrant in connection with the operation of an appraisal management company.

d. All correspondence and other records relating to the maintenance of any surety bond required by Iowa Code chapter 543E.

e. Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar functions performed by any third party, including but not limited to the administrator or any other regulatory or supervisory authority.

25.9(4) Disposal of records. If a registrant or former registrant disposes of records at the end of the retention period, the registrant or former registrant shall dispose of the records in a reasonable manner that safeguards any identification information, as defined in Iowa Code section 715A.8(1) "a." The owners and directors of registrants and former registrants are responsible for ensuring that this requirement is met.

187—25.10(17A,543E) Examinations, investigations, and complaints.

25.10(1) The administrator may, at any time and as often as the administrator deems necessary, examine a registrant's books, accounts, records, and files and investigate a registrant to assess potential violations of applicable appraisal-related laws, regulations, rules, or orders.

25.10(2) The administrator may investigate complaints about, or alleged violations committed by, any registrant.

25.10(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee, business affiliate, or other governmental agency.

b. Notice to the administrator from any source that the registrant, or any owner or controlling person thereof, has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the administrator from any source that any owner or controlling person of the registrant has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

187—25.11(17A,543E) Disciplinary action.

25.11(1) The administrator has authority pursuant to Iowa Code chapters 543E and 17A to impose discipline for violations of Iowa Code chapter 543E and this chapter.

25.11(2) Grounds for discipline. The administrator may impose any of the disciplinary sanctions set out in Iowa Code section 543E.17(1) when the administrator finds any of the following:

- a. The registrant, or an owner or controlling person thereof, has violated a provision of Iowa Code chapter 543E or this chapter.
- b. The registrant, or an owner or controlling person thereof, fails to fully cooperate with an examination or investigation, including failing to respond to an inquiry from the administrator within 30 calendar days of the date the administrator mails a written communication directed to the registrant's last-known address on file with the administrator.
- c. The registrant, or an owner or controlling person thereof, has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the administrator.
- d. The registrant continues to operate an appraisal management company without an active and current registration.
- e. The registrant fails to timely notify the administrator of the occurrence of any of the significant events set forth in rule 187—25.7(17A,543E).
- f. The registrant fails to notify the administrator of a change in ownership, controlling person, name, or principal place of business.
- g. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the registrant's registration or authorization to operate an appraisal management company under the other state's or jurisdiction's law.
- h. The registrant fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.
- i. The registrant, or an owner or controlling person thereof, has violated an order of the administrator.
- j. The registrant has abandoned its place of business for 60 or more days.
- k. The registrant fails to pay any fee required by Iowa Code chapter 543E or this chapter or to maintain a bond required by Iowa Code chapter 543E.
- l. A fact or condition exists which, had it existed at the time of the original application for registration, would have warranted the administrator to refuse to issue the original registration.

25.11(3) A registrant may surrender a registration by delivering to the administrator a written notice of surrender.

187—25.12(17A,543E) Appraisal management company national registry maintained by the appraisal subcommittee. The administrator shall transmit to the appraisal subcommittee information and fees as necessary for inclusion on the appraisal management company national registry.

25.12(1) Registered appraisal management companies. The administrator shall transmit to the appraisal subcommittee all information regarding registered appraisal management companies required for inclusion on the appraisal management company national registry, including but not limited to a roster of appraisal management companies registered in this state and records relating to any disciplinary action taken against a registrant.

25.12(2) Federally regulated appraisal management companies. The administrator shall collect from a federally regulated appraisal management company all fees required for registration on the appraisal management company national registry maintained by the appraisal subcommittee. A federally regulated appraisal management company shall also pay all fees associated with the administration of this rule, including but not limited to fees required by the NMLS. The administrator shall collect from a federally regulated appraisal management company the following information necessary for the fulfillment of this obligation: the name, address, and telephone number of the company; the national registry identification number and tax identification number of the company; the start date of the company's registration on the appraisal management company national registry; the name of and contact information for a contact person for the company; and any other information as required by the administrator.

187—25.13(17A,543E) Preregistration.

25.13(1) A person who is not required to register as an appraisal management company because its appraiser panel does not meet or exceed the size requirements specified in Iowa Code section

543E.3(2) may apply to the administrator for preregistration as an appraisal management company. If the administrator approves the application, the applicant will receive a preliminary notice indicating that the administrator intends to approve the applicant for registration as an appraisal management company, based on the information submitted, as soon as the appraiser panel that the applicant oversees meets or exceeds the statutory size requirements. The administrator's preliminary intent to approve registration will remain subject to change in the event that the administrator receives additional information indicating that registration should be denied.

25.13(2) An applicant seeking preregistration as an appraisal management company must follow the application procedures prescribed in rule 187—25.2(17A,543E), including providing all required information. The applicant shall indicate that the applicant is applying for preregistration as an appraisal management company. The applicant shall submit the application fee required by rule 187—25.2(17A,543E), but an applicant under this provision need not submit the initial registration fee or the fee required by the appraisal management company national registry. The administrator shall approve or deny the application for preregistration based on the criteria enumerated in rule 187—25.3(17A,543E). Even if the administrator approves the application for preregistration, the applicant will not be registered on the appraisal management company national registry.

25.13(3) A person who has received preregistration as an appraisal management company must apply for registration as an appraisal management company at least 30 days before the appraisal panel that the preregistered person oversees meets or exceeds the size requirements specified in Iowa Code section 543E.3(2). The applicant shall submit a conversion application to the administrator, through the NMLS or as otherwise prescribed by the administrator, specifying the new size of the applicant's appraiser panel as required by subrule 25.2(2), updating all required information as necessary, and including any other information as prescribed by the administrator. The applicant shall also submit a conversion fee, the initial registration fee, and the fee required by the appraisal management company national registry as specified in subrule 25.8(5).

25.13(4) The administrator shall approve the application for registration unless additional information submitted by the applicant, or otherwise received by the administrator, indicates that the applicant is ineligible for registration based on the criteria enumerated in rule 187—25.3(17A,543E). After the administrator approves registration, the applicant will be registered on the appraisal management company national registry and must comply with the provisions of Iowa Code chapter 543E and this chapter.

These rules are intended to implement Iowa Code chapters 17A and 543E.

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